

PROCEDURE

Effective Date: August 1, 2024

Approved By: Director, CRTC

Authority: POL-U1600.04

See Also: POL-U1600.04 Policy Prohibiting Discrimination Based on Sex

PRO-U1600.04A **Discrimination Based on Sex Intake and Resolution Procedure**

I. **Purpose and Jurisdiction**

WWU Civil Rights & Title IX Compliance (CRTC) is responsible for the intake and resolution of concerns and complaints related to discrimination based on sex. CRTC facilitates the following intake and resolution processes as defined by the WWU Policy Prohibiting Discrimination Based on a sex (POL-U1600.04):

- Confidential Consultation to Understand Rights,
- Documentation Only,
- Supportive Measures,
- Informal Resolution,
- Alternative Resolution Agreement,
- Formal Complaint

This procedure governs the processes by which the University responds to formal complaints filed under POL-U1600.04. The definitions, terms, and conditions from POL-1600.04 apply to this procedure.

The following persons have a right to make a complaint of discrimination on the basis of sex and request that the University make a determination about alleged discrimination under Title IX:

- 1) A Complainant;
- 2) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant;
 - a) Parental status means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:
 - i) A biological parent;

- ii) An adoptive parent;
- iii) A foster parent;
- iv) A stepparent;
- v) A legal custodian or guardian;
- vi) In loco parentis with respect to such a person; or
- vii) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

3) The Title IX Coordinator;

II. **Basic Principles that Inform this Procedure**

1. Treat Complainants and Respondents equitably;
2. Require that any person designated as a Title IX Coordinator, investigator, or decision maker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
3. The decision maker may be the same person as the Title IX Coordinator or investigator;
4. The Respondent is presumed not responsible for alleged discrimination based on sex until a determination is made at the conclusion of the formal complaint process.
5. Establish reasonably prompt timeframes for the major stages of the formal complaint process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay.
6. Take reasonable steps to protect the privacy of the parties and witnesses during the formal complaint process, provided that steps do not restrict the parties to: obtain and present evidence, including by speaking to witnesses, consult with their family members, confidential resources, or advisors, or otherwise prepare for or participate in the formal complaint process.
7. Require an objective evaluation of all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence.
8. Require that credibility determinations not be based on a person's status as a Complainant, Respondent, or witness.
9. Exclude impermissible evidence as defined in POL-U1600.04 and exclude questions seeking that evidence. Impermissible evidence must not be accessed or considered, except by the University to determine whether an exception

applies, must not be disclosed, and must not otherwise be used, regardless of whether it is relevant.

III. **Procedure**

1. **Initial Report and Outreach**

When CRTC receives an initial report of potential discrimination based on sex CRTC takes the following steps:

a) Initial Report from Impacted Party

- i. If the initial report is received from an impacted party, CRTC will provide information about the relevant University policies and procedures and an invitation to meet with CRTC to answer questions or to pursue one or more of the resolution options available to them.
- ii. If an impacted party does not initially respond CRTC will make an additional attempt to contact them but will not continue to make contact attempts unless warranted by the individual circumstances.
- iii. If an impacted party responds to CRTC and asks CRTC not to contact them, CRTC will not make further contact with the impacted party unless warranted by the individual circumstances.

b) Initial Report from Reporting Party

- i. If the initial report is received from a reporting party other than the impacted party, CRTC will acknowledge receipt of the initial report and either attempt to contact the impacted party or gather more information from the reporting party.

2. **Initial Intake Meeting**

During CRTC's initial intake meeting with an impacted party or a Complainant, the following is reviewed:

- a) Applicable University Policies and Procedures;
- b) Supportive measures available;

- c) Any safety concerns and options for safety planning;
- d) Resolution processes available, including the availability of the voluntary Alternative Resolution Agreement process;
- e) Violation standards as defined in POL-U1600.04;
- f) Limitations on confidentiality in the process and that CRTC would only share information with other University offices or employees on a need-to-know basis;
- g) CRTC's role as a neutral, impartial investigator and/or facilitator of a resolution;
- h) The right to have a support person or advisor present during meetings under this procedure; and
- i) The prohibition on retaliation and interference.

3. Implementing Supportive Measures

Supportive measures may vary depending on what options are reasonably available. These measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

- a) Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the University's educational environment, or to provide support during the University's resolution processes.
- b) Supportive measures must not be imposed for punitive or disciplinary reasons.
- c) The University may, as appropriate, modify or terminate supportive measures at the conclusion of the University's resolution processes, or the University may continue them beyond that point.
- d) The Complainant and/or the Respondent may seek modification or reversal of a decision to provide, deny, modify, or terminate supportive measures applicable to them.
 - i. This request must be reviewed by an impartial employee other than the employee who made the challenged

decision who has authority to modify or reverse the decision.

- e) The Complainant and/or Respondent may also seek additional modification or termination of a supportive measure applicable to them if circumstances materially change.

4. Filing a Formal Complaint:

a) *Formal Complaint Initiated by a Complainant*

- 1) A formal complaint may be filed by an individual directly impacted by conduct that could constitute a violation of POL-U1600.04.
- 2) Formal complaints may be made verbally or in writing to CRTC.
- 3) If the Complainant has not already participated in an investigative intake meeting with a CRTC investigator they may be invited to do so in order to gather sufficient information to determine whether to proceed with an investigation or to dismiss the Complaint.
- 4) Upon receipt of a formal complaint, CRTC will create a formal complaint file and record the date the formal complaint was received which is referred to as the filing date.
- 5) The Complainant will be asked to provide the names of any witnesses or individuals who can provide relevant evidence. The Complainant may provide this information to the investigator during their initial meeting or may provide it at a later date.

b) *Formal Complaint Initiated by CRTC*

- i. In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator may determine whether to initiate a complaint of discrimination based on sex.

- 1) In making this determination, the Title IX Coordinator or their designee will consider the totality of the circumstances, including, but not limited to the following:
 - 2) A Complainant's request not to proceed with initiation of a complaint;
 - 3) A Complainant's reasonable safety concerns regarding initiation of a complaint;
 - 4) The risk that additional acts of discrimination based on sex would occur if a complaint is not initiated;
 - 5) The severity of the alleged discrimination based on sex, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
 - 6) The age and relationship of the parties, including whether the respondent is an employee;
 - 7) The scope of the alleged discrimination based on sex, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals;
 - 8) The availability of evidence to assist a decisionmaker in determining whether discrimination based on sex occurred; and
 - 9) Whether the recipient could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.
- 2) If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the

conduct as alleged prevents the University from ensuring equal access based on sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

- 3) If initiating a complaint under this section, CRTC will notify the impacted party prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures.

c) *Formal Complaint Initiated by Leadership.*

The President, Provost, Vice Presidents, Deans, Directors, Supervisors or Chairs, if given sufficient cause, may request that the CRTC conduct an investigation.

- i. The administrator requesting the investigation must specify the person(s) who are alleged to be the subject of the alleged discrimination.
- ii. CRTC will review the request and determine if it is appropriate to move forward with a formal complaint and investigation.

5. Determination to Proceed.

a) Proceed or Dismiss:

- i. Within ten (10) working days of the date a formal complaint is filed with CRTC, an investigator will determine whether the facts alleged in the complaint fall within the jurisdiction of CRTC.
- ii. If it does, the investigator will prepare a notice of investigation for the Complainant to review.
- iii. If not, the complaint under POL-U1600.04 will be dismissed and the Complainant will be notified in writing.
 - 1) The investigator may evaluate the complaint to make a reasonable determination of whether the conduct as alleged could constitute discrimination

on the basis of sex consistent with Title IX regulations.

- 2) If the investigator determines that it could not, the portions of the complaint that specifically relate to conduct defined in Title IX will be dismissed.
- 3) The complaint will also be evaluated to determine if it could constitute a violation of POL-U1600.04 independent of the Title IX regulations, and if it could the complaint may proceed under the university policy alone without the additional Title IX requirements.

b) Options after a dismissal under this procedure:

- i. The Complainant may appeal a dismissal decision to the Title IX Coordinator or their designee. If a dismissal occurs after the Respondent is notified of the allegations the Respondent also may appeal the dismissal. If the dismissal is appealed CRTC will:
 - 1) Notify the parties of any appeal, including notice of the allegations if notice was not previously provided to the Respondent;
 - 2) Implement appeal procedures equally for the parties;
 - 3) Ensure that the decision maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
 - 4) Ensure that the decision maker for the appeal has been trained consistent with the requirements in POL-U1600.04;
 - 5) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome, and
 - 6) Notify the parties of the results of the appeal and the rationale for the result.

- ii. A Complainant or Respondent who feels that action is warranted even though CRTC has found otherwise may make a complaint through other University resources or to an external state or federal agency that has the jurisdiction to review the Complainant's concerns.
- c) Consolidation of Complaints
- i. CRTC may consolidate complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances.

6. Notice of Investigation.

Once a determination has been made to proceed with an investigation CRTC will prepare and issue a notice of investigation to the Respondent. A copy of this notice will be shared with the Complainant, and where the Respondent is an employee, a copy will also be shared with the appropriate supervisor and Human Resources. This notice will include the following:

- a) A clear statement that CRTC is opening an investigation into allegations that they may have engaged in conduct that violates POL-1600.04.
- b) A copy of POL-U1600.04 and this procedure.
- c) A summary of the allegations. Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute discrimination based on sex, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available.
 - i. CRTC may make a determination that the notice will not include an individual's identifying information if there is a reasonable concern for the safety of the individual if that information were to be included in the notice and where it is alleged or understood that the Respondent did not previously have such identifying information.

- d) The availability of the voluntary Alternative Resolution Agreement process;
- e) An invitation to identify potential witnesses and/or evidence for the investigator to consider reviewing.
- f) An invitation to submit a response in writing within 10 working days of the date of notice. The Director or their designee may grant a Respondent's request for an extension for reasonable cause.
- g) An invitation to request to meet with the investigator within 10 working days of the date of notice, to discuss the process, to ask questions, and to share any concerns or requests for supportive measures during the investigation.
- h) An invitation to participate in an investigative interview with the investigator. The timing of this interview will be determined by the investigator. The investigation process will proceed even if the Respondent does not participate in this interview.
- i) A description of the Respondent's rights in the process, including:
 - i. The ability to have a support person or advisor present during meetings under this procedure. This may include an attorney or a union representative if applicable.
 - ii. The Respondent is presumed not responsible.
 - iii. The ability to request supportive measures.
 - iv. The ability to request accommodations due to disability, pregnancy or related conditions, or limited English proficiency.
- j) If, in the course of an investigation, CRTC decides to investigate additional allegations of discrimination on the basis of sex by the Respondent toward the Complainant that are not included in the original notice of investigation, CRTC will provide an additional notice including the additional allegations.

7. Alternative Resolution Agreement Process

Where the Complainant and the Respondent voluntarily agree to participate in the Alternative Resolution Agreement Process (ARA), and CRTC has determined that the ARA is appropriate under the circumstances, a facilitator will be assigned to work with both parties to complete the process.

- a) Before the initiation of the ARA, CRTC will provide the parties a notice which will include the following information:
 - i. The requirements of the ARA process;
 - ii. That, prior to agreeing to a resolution, any party has the right to withdraw from the ARA process and to initiate or resume the formal complaint and investigation;
 - iii. That the parties' agreement to a resolution at the conclusion of the ARA process would preclude the parties from initiating or resuming the formal complaint and investigation process arising from the same allegations;
 - iv. The potential terms that may be requested or offered in an ARA process, including that the ARA is binding only on the parties; and
 - v. What information the University will maintain and whether and how the University could disclose such information for use in the formal complaint and investigation if resumed.
- b) The facilitator for the ARA process must not be the same person as the investigator or the decision maker.
- c) Any person designated as an ARA facilitator must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
- d) Any person facilitating an ARA must receive appropriate training consistent with the requirements under POL-U1600.04.
- e) Potential terms that may be included in an ARA include, but are not limited to:
 - i. Restrictions on contact; and
 - ii. Restrictions on the Respondent's participation in one or more of the programs or activities or attendance at specific

events, including restrictions the University could have imposed as remedies or disciplinary sanctions had the University determined at the end of the formal complaint process that discrimination on the basis of sex occurred.

8. Investigation and Report.

Once notice is provided to the parties, the investigator will begin the investigation, which will include the following steps:

a) Initial Review:

The investigator will review any initial statements and evidence submitted by the Complainant and/or the Respondent. The investigator will consider any suggestions from the parties regarding additional potentially relevant evidence that may be collected and the names of witnesses that may be able to provide relevant information. The investigator will identify and determine which witnesses will be invited to participate in investigative interviews.

b) Investigative Interviews:

The investigation may include meeting independently one or more times with the Complainant, the Respondent, and witnesses. The investigator may choose to interview additional individuals who may have knowledge of the alleged incident, including but not limited to faculty, staff, students and administrators.

Witnesses participating in investigative interviews will be advised not to disclose information about the allegation outside the complaint process. Complainants and Respondents will be advised to use discretion when determining whether to disclose information about the allegation outside the complaint process. This does not limit the right of Complainants or Respondents to access support resources, consult with advisors, identify and gather evidence to support their position, or participate in related investigations (such as a criminal, or external agency investigation). The investigator will determine the relevance of the evidence provided during the interviews.

The investigator will make a determination regarding whether to record a transcript of the investigation interview. Other recordings of investigation interviews are prohibited. The individual being interviewed may request a copy of any such transcript and/or the

investigator may ask the interviewee to review the transcript and provide a list of any corrections, if applicable.

c) Collection of Evidence:

The investigator will gather relevant documents and other forms of evidence in order to conduct a thorough and impartial investigation of the allegations. Both Complainants and the Respondents shall be given equal opportunity to provide relevant evidence to support their positions.

d) Evidence Review

- i. CRTC will provide the Complainant and the Respondent with a description of the evidence and an opportunity to respond prior to completing the final investigation report. The parties will have an equal opportunity to access the relevant and not impermissible evidence upon the request of any party.
- ii. CRTC will advise the Complainant and Respondent that they are prohibited from unauthorized disclosure of information and evidence obtained solely through this evidence review. Disclosure of such information for purposes of administrative proceedings or litigation related to the complaint of discrimination based on sex is authorized.

e) Investigation Report Content:

The investigator will prepare a written investigative report which explains the investigation process, summarizes all relevant information obtained, including statements, documentation, and any other evidence provided, and makes findings as appropriate. The preponderance of evidence standard is used in all investigations under this procedure; the investigator determines, based on the evidence, whether it is “more likely than not” that the allegations occurred as alleged. If the allegations are found more likely than not to have occurred, the investigator then determines whether the conduct constitutes a violation of POL-U1600.04 as unlawful discrimination based on sex and/or inappropriate conduct based on sex.

f) Issuing the Investigation Report:

Once complete, the investigator will issue the investigation report to the Complainant and the Respondent.

- i. Where the Respondent is a student, a copy of the investigation report will also be issued to the Office of Student Life.
- ii. Where the Respondent is an employee, a copy of the investigation report will also be issued to Human Resources and the appropriate Vice President(s), and/or the appropriate dean(s) or their designee.
- iii. Where the Respondent is a student employee, CRTC will make a fact specific inquiry to determine if the alleged conduct is primarily related to the Respondent's role as an employee or their role as a student.
 - 1) If the Respondent's alleged conduct primarily relates to their job-related duties and the work environment, a copy of the investigation report will also be issued to Human Resources and the appropriate department supervisor.
 - 2) If the Respondent's alleged conduct does not relate to their job-related duties and the work environment, a copy of the investigation report will also be sent to the Office of Student Life.

g) Review by Vice President:

Within 15 working days after receiving the investigative report, the appropriate Vice President or designee will determine appropriate actions in response to the findings. These actions shall be documented in writing and include the rationale for and the effective date of any corrective actions, discipline, or sanctions. Documentation of these actions must be shared with CRTC to ensure compliance with record-keeping requirements.

- i. Where the Respondent is a student, the Vice President of Enrollment and Student Services (VPES) has designated the Assistant Dean of Students or their designee to receive

investigation reports for determination of potential sanctions.

The Assistant Dean of Students has designated the Student Conduct Officer as responsible for determining if the findings are a violation of the Student Conduct Code (the Code), and if so, issue a sanction(s). Either or both the Complainant or the Respondent may appeal the sanction, utilizing the procedure contained in the Code.

1) Student Sanctions - Student sanctions to be considered by the Student Conduct Officer, as designated by the VPES, can vary in type, intensity and duration, depending on the specifics of each case. All sanctions, with the exception of expulsion may include mandatory training sessions. Examples of possible sanctions include, but are not limited to:

- Required training
- Required written educational paper
- No trespass order
- No contact order
- Conditional Status
- Termination of University Residence housing contract
- Suspension from the university
- Expulsion from the university

ii. Where the Respondent is an employee the relevant Vice President and/or their designee will receive a copy of the investigation report and will follow applicable employee disciplinary processes (i.e. collective bargaining agreements, employee handbooks, etc.) when determining whether to implement corrective actions, discipline, or sanctions.

1) Employee Sanctions- Employee discipline to be considered by Vice Presidents and/or their designee, depending on the Respondent's employee classification, can vary in type, intensity and duration, depending on the specifics of each case. All discipline, with the exception of

termination, may include mandatory training sessions. Examples of possible sanctions include but are not limited to:

- Required training
- Letters of reprimand
- Restriction from contacting other parties
- Reduction of job responsibility or demotion
- Denial or postponement of leaves or salary increases
- Suspension from further teaching of and/or involvement with particular classes or programs (e.g., summer, study abroad, etc.)
- Suspension from employment
- Non-renewal of contract for non-tenure track faculty
- Termination of employment

h) Time Limit Extensions:

Time limits set forth in this procedure may be extended for good cause by the Director or their designee. Upon written application to the Director by the Complainant, the Respondent, the unit Vice President or Dean, (the Director may also extend time limits) the Director or their designee shall inform the parties in writing of any time limit extensions and the reason for such extensions.

i) Alternative Complaint Process:

i. Internal.

A Complainant may not elect to use other internal grievance procedures (such as labor agreement grievance procedure) for complaints pertaining to alleged discrimination based on a protected class.

A Complainant alleging sexual violence or other forms of discrimination that may constitute criminal behavior may make a report to University Police or any law enforcement agency that has jurisdiction over the Respondent, instead of or in addition to making a complaint under this procedure.

ii. External.

A person who believes that they have been the subject of discrimination prohibited by state or federal law may choose to file a discrimination complaint by contacting one of the following agencies within their established time limits:

Washington State Human Rights Commission
711 S. Capitol Way, #402
P.O. Box 42490
Olympia, WA 98504-2490
Phone: (800) 233-3247
TTY: (800) 300-7525

U.S. Equal Employment Opportunity Commission
Seattle Field Office
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909 First Avenue, Suite 400
Seattle, WA 98104-1061
Phone: (800) 669-4000
TTY: (800) 669-6820

U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507
Phone: (202) 663-4900
TTY: (202) 663-4494

U.S. Department of Education
Office for Civil Rights
915 Second Avenue Room 3310
Seattle, WA 98174-1099
Phone: (206) 607-1600
TDD: (206) 607-1647

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100
Phone: (800) 421-3481

TDD: (800) 877-8339

U.S. Department of Labor
Office of Federal Contract Compliance Programs
Seattle District Office
300 Fifth Avenue, Suite 1100
Seattle, WA 98104
Phone: (206) 398-8005

U.S. Department of Labor
Office of Federal Contract Compliance Programs
Frances Perkins Building
200 Constitution Ave., NW Washington, DC 20210
Phone: (800) 397-6251
TTY: (877) 889-5627